



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

DEC 14 2016

Ref: 8ENF-W-NP

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Marilyn A. Grossenburg, Registered Agent
Rosebud Concrete, Inc.
721 North Main Street
Winner, South Dakota 57580

Re: Request for Information Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. §1318

Dear Ms. Grossenburg:

The U.S. Environmental Protection Agency (EPA) is investigating Clean Water Act compliance at a concrete facility located at 204-210 Adams Street in Mission, South Dakota (the site). The EPA's information to date is that Rosebud Concrete, Inc. (the company) owns the site. As part of its continuing investigation, the EPA is requesting that Rosebud Concrete, Inc. provide the information requested in this letter. Section 308 of the Clean Water Act (Act), 33 U.S.C. § 1318, gives the EPA the authority to request information of this nature.

Rosebud Concrete, Inc. is hereby required to provide to the EPA the following information within thirty (30) days of receipt of this letter. Please respond separately and in writing to each question below. Please number the answer so that it clearly indicates which portion of the answer corresponds to each request. If a question is not applicable to the site, state N/A and describe why.

1. Confirm whether Rosebud Concrete, Inc. owns and/or operates the site. If any other entity or individual owns and/or operates the site, provide the name and address of that individual or entity, if known. Provide also the percent of ownership of all entities or individuals.
2. Provide the name and address of the owner, CEO, president or other chief official of Rosebud Concrete, Inc.
3. Provide a description of all business activities at the site. For each activity, include:
 - a. the associated Standard Industrial Classification (SIC) code and North American Industry Classification System (NAICS), if known. A complete list of SIC Codes can be obtained from the Internet at <https://www.osha.gov/pls/imis/sicsearch.html> and a list for the NAICS codes at www.census.gov/epcd/www/naics.html or in paper form from various locations in the document titled Handbook of Standard *Industrial Classifications*, Office of Management and Budget, 1987;
 - b. an estimate of the percentage of the total business activity attributed to the activity;

- c. the location(s) the activity is conducted (i.e., within any building(s) and, if so, which building(s), in the storage yard, and/or in another location on the site).
 - d. when the activity began (month and year).
4. Provide a description of any chemicals, oils, solvents, fuel or other bulk liquids stored at the site, including:
 - a. the quantity stored at the site at any given time;
 - b. the type of storage container;
 - c. whether each storage container has secondary containment; and
 - d. the location of storage.
5. Provide a description of any other material stored or used on site such as, but not limited to, exposed kiln dust, limestone, shale, coal clinker, gypsum, clay, slag, cement, spilled aggregate, chalk or sand, including for each:
 - a. the quantity of material stored at the site at any given time;
 - b. list any practices or controls used to prevent possible water pollution (e.g., routine sweeping or vacuuming; collection and containment of debris in storage areas, linings, silt fence; specific washout areas; oil-water separators; filtering devices; recycle/retention ponds, etc.); and
 - c. the location of storage.
6. Provide a description of any stormwater flows at or from the site during a storm event. This shall include any stormwater flows onto the site from any adjacent property or properties and any stormwater flows off the site.
7. Describe whether and to what extent stormwater from the site may reach any waterway or body of water, or any drainage leading to water, including any wetland-like area or sewers. Include the name of any known waterway or body of water that the stormwater from the site may reach.
8. Provide a description of stormwater controls implemented at the site, if any, to control stormwater running onto the site, stormwater running off of the site, and/or impacts of pollutants on stormwater. These measures could include but are not necessarily limited to berms, vegetative swales, collections and reuse of stormwater, inlet controls, diversions, secondary containment around bulk storage devices, or covers for bulk storage areas.
9. Indicate whether a process wastewater or a wash water recycle/retention pond exists at the site and its location.
10. Indicate whether any of the following activities take place on the site and the location of each, if applicable: mixing operations, pouring and curing pre-cast concrete products, cleaning, vehicle fueling, maintenance and/or washing (i.e., within any building(s) and, if so, which building(s), in the storage yard, and/or in another location on the site).
11. Indicate how often anyone on behalf of Rosebud Concrete, Inc. inspects any bulk materials, storage areas, process areas, and/or stormwater controls at the site. Include a copy of each written self-inspection report, if any, of each such inspection.

12. Provide a copy of any stormwater pollution prevention plan for the site.
13. Describe specific good housekeeping practices conducted regularly at the site to minimize exposure of potential pollutants to the environment. These practices could include but are not limited to regular sweeping; preventing the discharge of spilled cement, aggregate, fly ash, other significant material into stormwater from paved areas on site that are exposed to precipitation; employee training; conducting routine inspections of drums, tanks, and containers for leaks and structural conditions; dust collection and storing materials under cover or in buildings.
14. Provide copies of available analytical results of any sampling for pollutants in discharges from the site.
15. Provide a description of any non-stormwater discharges of any pollutant(s) from the site. Non-stormwater discharges are discharges caused by flows other than a storm event, including but not necessarily limited to compressor condensate, irrigation drainage, lawn watering, air conditioner condensate, and springs.
16. Provide a site map showing the locations of any site building(s), property boundaries, material and bulk storage outside of the site building(s), where stormwater flows onto or off of the site, any stormwater drains/conveyances or water features on or near the site, any stormwater controls, and any non-stormwater discharges. This map may be hand-drawn or computer generated. The site map must be legible and approximately to scale. For your convenience, we have included an aerial photograph of what the EPA believes to be the site. You may use this photograph to indicate the information requested in any of the above requests as well as for this one (number 16). However, if the aerial photograph is inaccurate or incomplete, please disregard and provide your own site map.

Rosebud Concrete, Inc.'s response to this request must be accompanied by a certificate that is signed and dated by someone who is authorized by the company to respond to this request. The certification must state that the response is complete and contains all information and documentation available to the company that is responsive to the request. A sample Statement of Certification is enclosed. Rosebud Concrete, Inc. must also correct or supplement its response to this request upon learning that the information it has provided is not accurate or complete.

A Small Business Regulatory Enforcement and Fairness Act (SBREFA) information sheet containing information on compliance assistance resources and tools available to small businesses is enclosed with this letter. The inclusion of this information sheet does not necessarily mean that the EPA has determined that Rosebud Concrete, Inc. is a small business. SBREFA does not eliminate your responsibility to respond to this information request.

Rosebud Concrete, Inc. may claim that the EPA should treat any of the requested information as confidential. To make such a claim, the company will need to follow the procedures in 40 C.F.R. part 2, subpart B (as promulgated at 41 Fed. Reg. 36902 on Sept. 1, 1976, 43 Fed. Reg. 39997 on Sept. 8, 1978, and 50 Fed. Reg. 51654 on Dec. 18, 1985). If Rosebud Concrete, Inc. makes a confidentiality claim, the EPA will disclose the information covered by the claim only as allowed by that subpart. Making a confidentiality claim does not guarantee that the EPA will agree that the information is entitled to confidential treatment. If the company does not make such a claim when it submits the information to

the EPA, the EPA may make the information available to the public without notifying the company. The company is required to provide the requested information even if it claims it is confidential.

It is very important that you respond to this request for information. Please note that the failure to provide required information may potentially result in civil penalties of up to \$51,570 per day per violation, and that even harsher criminal consequences are possible in the case of deliberate false statements (33 U.S.C. § 1319; see also 18 U.S.C. § 1001).

Please submit the information requested in this letter to:

U.S. EPA Region 8 (8ENF-W-NP)
NPDES Enforcement Unit
1595 Wynkoop Street
Denver, CO 80202-1129
Attn: Christina Carballal

If anyone with the company has any questions concerning the information request or submittal of the company's response, please contact Christina Carballal, Environmental Engineer, at 303-312-6046. If the company is represented by an attorney who has questions, please ask the attorney to call Abigail Dean, Enforcement Attorney, at 303-312-6106.

Sincerely,



Stephanie DeJong, Unit Chief
Water Technical Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice



James H. Eppers, Supervisory Attorney
Regulatory Enforcement Unit
Legal Enforcement Program
Office of Enforcement Compliance and
Environmental Justice

Enclosures:

1. Aerial Photograph
2. Statement of Certification
3. SBREFA information sheet

Rosbud Concrete, Inc.

Response to Request for Information Pursuant to Section 308 of the Clean Water Act

Statement of Certification

I certify under penalty of law that the foregoing document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature

Date

Printed Name

Official Title



U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Small Business Programs

www.epa.gov/smallbusiness
EPA's Office of Small Business Programs (OSBP) advocates and fosters opportunities for direct and indirect partnerships, contracts, and sub-agreements for small businesses and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman

www.epa.gov/sbo or 1-800-368-5888
The EPA Asbestos and Small Business Ombudsman (ASBO) serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

EPA's Compliance Assistance Homepage

www2.epa.gov/compliance
This page is a gateway industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net
EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair
ccar-greenlink.org/ or 1-888-GRN-LINK

Chemical Manufacturing
www.chemalliance.org

Construction
www.cicacenter.org or 1-734-995-4911

Education
www.campuserc.org

Food Processing
www.fpeac.org

Healthcare
www.hercenter.org

Local Government
www.lgean.org

Metal Finishing
www.nmfrc.org

Paints and Coatings
www.paintcenter.org

Printing
www.pneac.org

Ports
www.portcompliance.org

Transportation
www.tercenter.org

U.S. Border Compliance and Import/Export Issues
www.bordercenter.org

EPA Hotlines, Helplines and Clearinghouses

www2.epa.gov/home/epa-hotlines
EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Clean Air Technology Center (CATC) Info-line
www.epa.gov/ttn/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP and Oil Information Center
www.epa.gov/superfund/contacts/infocenter/index.htm or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline
www.epa.gov/otaq/imports or 734-214-4100

National Pesticide Information Center
www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) - www.epa.gov/opptintr/ppic or 1-202-566-0799

Safe Drinking Water Hotline - www.epa.gov/drink/hotline/index.cfm or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone/comments.htm or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<http://www.epa.gov/sbrefa/compliance-guides.html>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

<http://www.epa.gov/sbo/rsbl.htm>

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

www.epa.gov/sbo/507program.htm

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal/

The Portal provides access to information on environmental issues, laws, and resources related to federally recognized tribes.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www2.epa.gov/enforcement/small-businesses-and-enforcement

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy

www2.epa.gov/compliance/epas-audit-policy

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.